IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE DR JUSTICE G.YETHIRAJULU**

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**WRIT PETITION NO : 17359 of 2004**

Between:

The Atmakur Fishermen Cooperative Society, rep. by its President, Mr. Brunga Ramana Rao, S/o. Nagaiah, aged about 38 Years,

R/o. Atmakur Village, Durgi Mandal, Guntur District.

**..... PETITIONER**

AND

1.Government of Andhra Pradesh, rep. by its Principal Secretary,

Animal and Husbandry Dairy Development & Fisheries

Department, Secretariat, Hyderabad.
2.The Commissioner of Fisheries, Mastya Bhavan, Santhinagar, Hyderabad.
3.The Deputy Director of Fisheries, Guntur District, Guntur.
4.The Assistant Director of Fisheries, Guntur District, Guntur.

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue Writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the notice of the Assistant Director of Fisheries vide Notice No.322/A2/2004, Dt. 16-9-2004 as bad, arbitrary, void, contrary to all cannons of law

apart from the provisions of A.P.C.S. Act, 1964 and offends Articles 14, 19 and 21 of the Constitution of India.

**Counsel for the Petitioner: MS.M.VIDYAVATHI**

**Counsel for the Respondents: THE GP FOR FISHERIES**

**The Court at the stage of admission made the following :**

**THE HONOURABLE DR.JUSTICE G.YETHIRAJULU**

**WRIT PETITION No.17359 OF 2004**

**ORDER:**

The petitioner-Society approached this Court through this writ petition, questioning the notice given by the fourth respondent, directing the complainant by name G.Simhachalam, an Ex-President of the petitioner-Society and the President and Members of the petitioner-Society to attend an enquiry regarding the application made by Mr.G.Simhachalam at about 11.00 a.m. on 28.09.2004 with the relevant records.

2. The learned Counsel for the petitioner represents that on the complaint given by Mr.G.Simchalam, the third respondent conducted an enquiry and the fourth respondent again resorted to conduct another enquiry on the same allegations made in the complaint, which is not permissible under Law. The learned Counsel for the petitioner further submits that calling the President and Members of the Society for enquiry is nothing but calling for the general body meeting of the Society, therefore, such meeting cannot be conducted without giving notice to all the concerned calling for the general body meeting within thirty days as per Section 32 of the Andhra Pradesh Co-operative Societies Act, 1964, and the same is bad, arbitrary and contrary to the Canons of Law.

3. The body of the notice indicates that the complainant was directed to appear before the 4$^{th}$ respondent with the supporting material and a copy was also marked to the President and Members of the petitioner-Society to attend the said inquiry with records. Since the Assistant Director did not mention whether it is an enquiry under

any of the provisions of the Act, the President and Members of the Society may exercise their discretion either to attend the same or not. If the fourth respondent fails to follow the procedure prescribed under the Law, the decision if any, going to be taken by him after such enquiry would be considered whether valid under Law or not. Since the Assistant Director wanted to gather some information on the basis of the complaint given by the Ex-President of the petitioner/Society, it cannot be said at this stage, whether he is competent to hold such enquiry, whether it is in accordance with the provisions of the Act. The gathering of information by the fourth respondent cannot be said to cause any prejudice to the petitioner-Society. The petitioner is, therefore, not entitled to the relief of preventing the Assistant Director from conducting the enquiry.

4. The Writ Petition is accordingly dismissed. No order as to costs.

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**Dr.G.YETHIRAJULU, J**

**Date:24th September, 2004.**

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ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1.The Principal Secretary, Animal and Husbandry Dairy Development & Fisheries Department, Government of Andhra Pradesh, Secretariat, Hyderabad.

2.The Commissioner of Fisheries, Mastya Bhavan, Santhinagar, Hyderabad.

3.The Deputy Director of Fisheries, Guntur District,Guntur.

4.The Assistant Director of Fisheries, Guntur District, Guntur.

5.Two C.Cs. to the Government Pleader for Fisheries, High Court Buildings, Hyderabad. (O.U.T.)

6.Two C.D. copies.